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AUTHOR Gottfredson, Gary D.
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ABSTRACT

After discussing some of the complex, sensitive issues involved in doing policy-related research, this paper describes a strategy for social scientists to use in doing collaborative research with criminal justice agencies. The strategy calls for: (1) careful selection of programs or practices on which to conduct research; (2) collaboration with decision makers that includes a responsibility to present complete and objective feedback about policies; (3) continuing evaluation and feedback about the consequences of program or policy changes that engages a wide variety of stakeholders in the discussion of policy; (4) recognition of the value-laden nature of the research itself; and (5) advance agreement on the rules for the collaborative research enterprise. (Author)

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Practical and Ethical Concerns in Collaborative Research with Criminal Justice Decision Makers

Gary D. Gottfredson

The Johns Hopkins University

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Practical and Ethical Concerns in Collaborative Research with Criminal Justice Decision Makers

Doing research in collaboration with policy makers in the criminal justice system is a complex and sensitive task. Participation in such research poses special dilemmas for the researcher over and above those inherent in most other forms of policy-related research because the criminal justice system in its current form is generally perceived to be unfair, ineffective, debasing, and even immoral. Furthermore, even the conceivable reconstructions of the system (von Hirsch, 1976) are not seen as desirable, but instead as "less unacceptable than any others which can be conceived at this time (Wilkins, 1976, p. 178)." The unsavory nature of our criminal justice and penal system has lead some serious writers to suggest that social scientists ought not lend legitimacy to the system by doing research in it (Korn, 1971). These arguments have undoubtedly contributed to the impoverished state of the literature on the ways the criminal justice system handles people. Because they have some merit, they must be treated seriously by researchers.

In the next few minutes I shall try to summarize some practical and ethical problems inherent in collaborative research with criminal justice policy makers. Then I shall summarize the reasons why social scientists have an important role in such research despite these ethical and practical dilemmas. Finally I shall attempt to suggest some general principles which may serve to guard against inappropriate uses of research and instead serve to foster positive change as a result of research.

In order to understand how collaborative research on criminal justice policies has potential for abuse or undesirable outcomes, it is necessary to consider some reasons such collaboration is sought or rejected by policy makers in the first place. Policy makers often reject the intervention of social scientists unless they perceive the probable outcomes of research as in line with agency or program goals, including the goal of survival. Program objectives are often largely determined by the political realities which administrators face as well as by practical, ethical, or scientific concerns. An administrator of a treatment program for offenders may eschew evaluation because it is feared that evidence of ineffectiveness would endanger the program's budget or even the existence of the program. In contrast, another administrator may actually seek the involvement of social scientists in the study of a program because of the aura of prestige or respectability which such involvement may bring--quite apart from the value of any knowledge gained or realistic expectations that research results will be used to guide practice in the future.

The very existence of a research project may be taken by one or another advocate of a particular program as support for the program. For example, an administrator who is implementing a controversial treatment program or attempting to alter an existent policy may point to ongoing evaluation research with the implication that the existence of the research project somehow sanctions the program or policy change. To take another example, an opponent of expenditures for rehabilitation may cite the existence of research into the effects of rehabilitation programs as an indicator that "even experts" do not know what the consequences of the effort may be.

As Weiss (1975) points out, most strategies for coping with major social problems are proposed, debated, and funded through the political process, and the ways programs are actually implemented are also subject to political and special interest forces. For this reason, any research-based evidence relating to these problems automatically becomes fodder for the political process. The political context of policy relevant social research poses special problems and dangers as well as opportunities for the researcher.

Misapplication or premature application of research results is a major problem in policy-related research because of the heated atmosphere of advocacy which surrounds programs the future of which depends on political activity. Research seldom provides firm and fast answers to important questions. If easy solutions were possible the topics under consideration would not pose research questions for long. Social science seeks to unravel complex problems, and simple, clear-cut solutions are extremely rare. Policy makers and researchers often do not understand this characteristic of research, and the history of criminal justice, penology, and corrections, like the history of most other areas in which politically determined public programs exist, is replete with examples of practices being implemented prematurely and nation-wide without careful evaluation.

Researchers who collaborate with agencies or administrators in the examination of current policies or efforts to promote change are sometimes criticized as supporting the status quo (Korn, 1971) despite the change orientation of this type of research. I have already indicated that this criticism will often be valid to some extent and consequently

must be taken seriously. The alternative to doing research, however, is to deprive social policy makers of sound feedback on which to base change, and to allow advocacy that is not based on research to dominate political discussions of policy. That research does not always (or even often) favor the status quo is illustrated by support for change in the criminal justice system that has come from research-based evidence about the way the system now works. This includes statistics regarding the variation in time served for particular offense categories (Gottfredson, Neithercutt, Nuffield & O'Leary, 1973), information about the processing of alleged offenders and their flow through various stages in the criminal justice system (President's Commission, 1967; Cohen, 1975a, b; Pope, 1975a, b; and other reports), research relating to the effectiveness of rehabilitative efforts (Greenberg, 1977; Martinson, 1975), examination of the decision-making process (Gottfredson, Wilkins & Hoffman, 1978), and evidence about the relation of time served to recidivism (Gottfredson, Gottfredson & Garofalo, 1977; Babst, Moseley, Schmeidler, Neithercutt & Koval, 1976).

Despite inherent difficulties, then, two research roles appear indispensable--facilitating change and evaluating the consequences of change. Research can foster change because agency administrators often resist change if they are unsure of its consequences or believe that consensus on practical policies can not be achieved. Research demonstrating that low risk releasees could be identified was instrumental in an administrative decision that saved massive amounts of money in California by decreasing institutional populations and saving costs of intensive parole supervision (Burdman, 1963, cited by Gottfredson, 1975), and practical illustrations that consensus can be reached about the seriousness of offenses

(Gottfredson et al., 1978; Rossi, Waite, Bose & Berk, 1974) have enabled agencies to adopt explicit structures for decision making. Whatever defects such structures may have, they are explicit and open to public scrutiny--a sharp contrast with earlier "individualized" decision making which was not only less equitable, but also much more of a closed procedure.

Research is essential in evaluating policy changes because any change which is make in a complex interdependent system such as the criminal justice system may be expected to have important unintended as well as planned consequences. A move to implement sentencing guidelines or determinant sentencing, for example, may affect prosecutorial behavior, the degree of discretion falling to correctional officers, prison population size, the demand for institutional services, probation caseload size, and the characteristics of offenders treated in alternative ways. Vigilance, monitoring, and careful evaluation and program revision will be required if reforms are to have their intended effects and to guard against undesirable side effects.

Suggestions such as those embodied in the von Hirsch (1976) report which are based primarily on reasoning about what constitutes justice provide a useful example of the need to evaluate even those changes which may be widely perceived as essential reforms. That report calls for less use of incarceration together with a "just deserts" framework in which offenders are punished for the acts they have been shown to have committed. We now have a genuine social movement pushing for a penal policy based on just deserts. The influence of this social movement may be seen in legislation such as California's SB 42, the Indiana determinant sentence law, and S 1437 (the Federal criminal justice reform proposal); and we also see its influence in statements such as that of the Task Force on

the Role of Psychology in the Criminal Justice System (1978). This social movement is based upon ethical considerations about what constitutes fairness, and upon disappointment with efforts to demonstrate the effectiveness of rehabilitative efforts. Because the move towards just deserts punishment is based on moral and philosophical argument rather than on any claims of effectiveness (in rehabilitating or deterring) the ethical necessity of carefully evaluating the consequences of a just deserts policy may be easy for some advocates to overlook.[1]

Few advocates of a just deserts approach, however, would condone increases in prison population size or average sentence length,[2] or a shift of discretion in the criminal justice system away from judges and towards prosecutors or correctional officers. Yet such outcomes are plausible, and indeed may be expected on the basis of preliminary evidence (Clear, Hewitt & Regoli, 1977). Just as was the case with the reforms initiated along with the earlier social movement urging rehabilitation as a goal of the penal system, evaluation research will

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[1] A positive feature of some discussions relating to S 1437 relates to an emphasis on research which would be used to guide policy formulated by a sentencing council.

[2] The von Hirsch (1976) report states that no one of the recommendations (e.g., the retributive rationale for sentencing) should be implemented unless the other recommendations (e.g., a decreased use of incarceration as a sanction) are also implemented.

also be required to learn whether the hopes of current reformers are being fulfilled. Much of that research will be conducted in collaboration with program or agency administrators--including judges, prosecutors, parole and corrections officials, and the police. Perhaps if we pursue research more rigorously than in the past we will be in a better position to state the consequences of retributive policies than we now are to state the consequences of specific types of rehabilitation efforts (Quay, 1977).

In short, researchers are faced with a manifest need for their services. Trustworthy assistance is required to assess the consequences of administrative decisions or practices. And, as earlier papers at this session have illustrated, assistance is often required in making implicit policy visible and in facilitating change once undesirable characteristics of current practices have been made explicit. At the same time, however, researchers are faced with the practical and ethical dilemmas in collaborative research which I have already pointed out. One option for researchers is to do critical research as outsiders, without collaboration with--and often against the wishes of--the policy makers involved. This is a legitimate option, although some research problems discussed in this symposium may be difficult to study in this way. Often, however, prospects for promoting change appear greater if an action research (Lewin, 1947; Sanford, 1970) approach is taken in which the stake of policy makers in the research is made clearer by their own participation through collaboration and dialogue with researchers who provide feedback about the consequences of actions. A failure to take the goals and perceived needs of administrators into account may lead to a failure of research to have a practical impact on policy.

If social scientists are to play their most helpful roles in collaboration with criminal justice policy makers, the potential misuses of research must be guarded against. Several strategies appear useful in promoting positive research, and in minimizing the misuse which advocates of particular positions may make of research or the research process.[3] These strategies involve:

1. Careful selection of problems on which to conduct research. As social scientists the problems chosen must offer realistic prospects of advancing knowledge. The selection of a problem for study must never presuppose an answer to the issues under investigation. Research questions and relevant outcome measures should be selected in part by considering the points of view of parties with diverse interests. The needs of the agency or program should not be allowed to dictate the research results or their scope, even in the slightest degree.

2. Providing complete and objective reporting of research results. This includes thorough discussion of limitations of research results, and complete accounts of research methods. Other investigators should in general have the opportunity for reanalysis or secondary analysis of the data on which research is based. Speculations should be clearly labeled as such.

3. Continuing open discussion with all interested parties about alternative interpretations of research results. These discussions help to design new research on previously unanticipated aspects of a problem, or to take account of alternative insights or perspectives. Throughout the entire process of research planning and reporting, ample opportunity for the presentation of diverse perspectives should be allowed.

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[3] These strategies are included in other statements of ethical principles, but those regarded as most salient in the present context are highlighted here. The effort which may be required of a researcher employed by a criminal justice agency in putting these principles to practice may be considerable, making their explicit statement and clear recognition all the more important.

4. Recognizing that research will never be value free. The decision to assist any agency with program change implies a belief that the change is desirable. In the area of criminal justice, values may be strongly held, and opinions often not regarded by their proponents as such. Consequently, an effort to make whatever changes, programs, or practices that may be implemented as open and explicit as possible should pervade collaborative work in this area. Such explicitness and openness guards against the envelopment of criminal justice practices by an inappropriate aura of scientific respectability; and it may be expected to foster, rather than retard, public discussion and debate about the legal, moral, and practical issues involved.

5. Making the rules governing the collaborative research arrangement explicit and mutually agreed upon in advance. This is to help protect the integrity and openness of the research enterprise, as well as to guard against misunderstandings and potential perceptions of betrayal later on.

These strategies are seen not as burdens but rather as opportunities to strengthen research by taking advantage of the insight and experiences of diverse consumers of and stakeholders in research. Consultation and discussion with diverse constituencies may be expected to bring the broadest possible range of ideas and advice to bear on important social problems, and in the long run may lead to the best solutions to those problems.

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